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EDITORIAL COMMENT

SELF-DETERMINATION

THIS is no new thing, though the phrase is new. A plebiscite to determine the consent of a population to a proposed cession of its territory and the sovereignty over it justified the reunion of Avignon and the Venaissin with France in 1791. Rivier (II, 210) mentions other cases. A portion of Savoy and Nice were ceded to France in 1860 by the Treaty of Turin, subject to this condition. "The plebiscite was also applied on a large scale by Sardinia in the creation of the modern kingdom of Italy," writes Hershey, who adds that the usage has never found favor in the eyes of either Great Britain or the United States. It was a condition subsequent in the case of North Schleswig in 1864, a condition never fulfilled, Austria speciously releasing Prussia from the obligation in 1878. The isle of Saint-Barthelèmy was ceded by Sweden to France in 1877 "*sous la reserve expresse du consentement de la population de Saint-Barthelèmy.*" Rivier also cites the application of the principle in a treaty of 1883 between Chile and Peru. But the cession of the Virgin Islands by Denmark to the United States so recently as 1917 contains no such condition.

The plebiscite principle, then, up to the present has been infrequently applied, and no such action has been deemed necessary to the validity of a cession. What has been usual is to permit the inhabitants of ceded territory to elect whether they will transfer allegiance or not, by a declaration retaining their former citizenship if so disposed. The plebiscite principle was a fad or device of Napoleon III, yet in 1867 Thiers said of it, "The new principle of the consent of peoples is an arbitrary principle, frequently a deceptive one, and only an element of disturbance when one wishes to apply it to nations." It is not a little curious that the principle of self-determination, hitherto rarely used, never employed by the United States even so late as the cession of the Danish West Indies, looked at askance by

nearly all publicists, should suddenly at the present assume such an importance.

What has brought the principle into such prominence and made a practical question of it?

President Wilson in his Fourth of July address, last year, laid down this ideal in international affairs:

The settlement of every question, whether of territory, of sovereignty, of economic arrangement, or of political relationship, upon the basis of the free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation or people which may desire a different settlement for the sake of its own exterior influence or mastery.

Did this pronouncement originate the application of the self-determination principle to present conditions? I do not know, but if so, it is not being consistently used, for Trieste and the Trentino, Alsace and Lorraine, the German Colonies and the new states carved out of Austria, are apparently not to be subjected to it. Nor is the new Poland. Mr. Wilson's thirteenth point, relating to Poland, is more specific than any other of the fourteen.

An independent Polish State should be erected which should include the territories inhabited by indisputably Polish populations, which should be assured a free and secure access to the sea, and whose political and economic independence and territorial integrity should be guaranteed by international covenant.

Surely this did not mean that little enclaves of German race could be excluded from Polish allegiance. Access to the sea is essential to the commercial independence, even to the political integrity of such a state as the new Poland. Now granting that the Danzig port and corridor furnish the only satisfactory "free and secure access to the sea," such as the President speaks of, and granting that its population is overwhelmingly German, how far is the principle of self-determination to bar its cession, as against the "material interest or advantage" of Poland itself? In other words shall we put a strict or a liberal construction upon the principle. A similar problem must be faced in the case of Fiume, which is Italian in population, but claimed to be essential to the economic independence and future growth of the new state of Jugo-Slavia. There is an added complication here in war promises to Italy.

Should not the lesser right yield to the greater? The compromise

solution of a free port seems to the writer quite inadequate, for it places the door of a state's commerce in hostile hands and limits the rights of what aspires to be a great independent nation.

The use of the plebiscite as a condition subsequent in the disposition of the coal of the Saar Valley should also be mentioned. Here, unlike North Schleswig, a time limit is said to have been set. Nevertheless, it may be questioned whether the suspended sovereignty will not give rise to more trouble than absolute cession, viewing the latter as direct and specific reparation for the wanton destruction of the Lens mines and their machinery.

Let us try to apply to the self-determination principle, both historical example and the rule of reason.

When the river traffic of our trans-Allegheny country was its only commercial outlet, New Orleans was in foreign hands. The right of free transshipment was granted by the treaty with Spain in 1795. Then came the Louisiana Purchase, a chief motive for it being the desire to possess the lower Mississippi, for the free port privilege did not satisfy the West. Now suppose the self-determination principle to have been applied to New Orleans in limitation of the Louisiana Purchase, whereby the Spanish and French population by its vote could prevent the cession of the port and lower river. Could the whole of our people consent to have its development, its dignity, its continuity, so limited? Clearly the little principle must yield to the big interest.

Or to take a different kind of parallel. Can one think complacently of an Ireland independent of Great Britain, and of an Ulster independent of Ireland.

What is the theory of self-determination founded upon? Upon the doctrine of popular sovereignty.

What is its object? To avoid subjecting a people to alien control against its will.

What size of unit answers to the description of a people? Such as is otherwise capable of independent existence.

Does the multiplication of small political units make for peace and stability? On the contrary, it makes for instability and invites aggression, since defensive power is lacking.

Has self-determination worked well in the past? In a few minor cases it may be said to have succeeded; in others it has been the cause and the result of intrigue, or has been inoperative.

My conclusion, then, from the standpoint of historical precedent and of theoretical analysis, is that the self-determination principle is comparatively new and untested; that it should be applied, if at all, with due regard to the balancing of results good and bad, rather than with relentless disregard of consequences; that there must be a limit set to the size of the unit to which it is applicable; that we would deprecate its application to ourselves.

It may be worth saying, in conclusion, that however Fiume is apportioned, apparently the old sovereign, Austria, will be shut out from the Adriatic. She, what is left of her, will therefore be forced to face northward, driven into eventual union with Germany.

THEODORE S. WOOLSEY.

INTERNATIONAL INTERMEDIARY INSTITUTE AT THE HAGUE

The JOURNAL has received the following announcement by the courtesy of His Excellency, J. T. Cremer, the Minister of The Netherlands to the United States. It is happy to give to it the publicity which he requests.

ACTING EDITOR IN CHIEF.

In January, 1918, a group of influential Hollanders, with various international relations, established an "International Intermediary Institute," designed to render international service of an impartial and useful nature. This institution which is purely and exclusively of a Netherland character, will make it its special business to furnish gratuitously all over the world scientific, practical and complete information on any subject of private and public international law and of international economics. The institution has its office at 3 Oude Scheveningsche weg, The Hague, opposite the Peace Palace, in which the formal opening of the Institute took place. The first year has been spent in preparatory work; a first bulletin will appear this year. The institution hopes as soon as more normal conditions prevail in Europe to satisfy a need—often so strongly felt—of a central distribution point of international intelligence. As its American correspondents the institution has appointed Mr. Ham. Vreeland, Jr., LL.B., Ph.D., Department of State, Washington, D. C.; Mr. H. A. van Coenen Torchiana, Consul General of the Netherlands, San Francisco, Cal.; and Mr. Edward R. Whittingham, A.B., LL.B., Attorney, 49 Wall Street, New York City.